IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT WHEELING

V. TAD GREENE, on behalf of
himself and as personal representative
of C.G., and ASHLEY L. GREENE,

Plaintiffs,

v. CASE NO. 5:10-CV-104
(Judge Stamp)

NATIONWIDE MUTUAL INSURANCE
COMPANY, an Ohio corporation,

Defendant.

**REPORT OF PARTIES' PLANNING MEETING AND JOINT DISCOVERY/CASE MANAGEMENT PLAN**

Pursuant to this Court's First Order and Notice Regarding Discovery and Scheduling, dated October 7, 2010, Federal Rules of Civil Procedure 16(b) and 26(f), and Local Rules of Civil Procedure 16.01 and 26.02, the parties to the above action, through their respective undersigned counsel, hereby submit their joint report of meeting and joint discovery/case management plan:

**1. Rule 26(f) Meeting.** On November 2, 2010, and again on November 12, 2010, the parties held a telephonic Rule 26(f) meeting. In attendance were Scott S. Blass of Bordas & Bordas, PLLC, for Plaintiffs, V. Tad Greene, on behalf of himself and as personal representative of C.G., and Ashley Greene, and Laurie C. Barbe of Steptoe & Johnson PLLC, for Defendant, Nationwide Mutual Insurance Company.

2. **Initial Rule 26(a) Disclosures.** In this Court's First Order and Notice Regarding Discovery and Scheduling, filed October 7, 2010, a deadline of December 9, 2010, was established for the parties to provide the initial discovery disclosures required under Federal Rules of Civil Procedure 26(a)(1). The parties request that this deadline be deferred given the pending Second Motion to Remand. The parties recommend that they be required to exchange the initial discovery disclosures required pursuant to Rule 26(a)(1) within 30 days of this Court's ruling on Plaintiffs' Second Motion to Remand in the event said Motion is denied.

3. **Discovery Plan.** The parties jointly propose the following discovery plan:

**A.** The parties do not believe any changes should be made in the timing, form or requirement for disclosures under Rule 26(a) with the exception of the parties' request that said disclosures not be required until 30 days after this Court issues its ruling on Plaintiffs' Second Motion to Remand.

**B.** **Written Discovery.** The parties anticipate that discovery will be needed on the following subjects:

**i.** The reasonableness and necessity of the medical bills incurred by plaintiffs as a consequence of the treatment rendered to Ashley Greene to address the injuries she sustained in the motor vehicle collision of October 2, 2008.

**ii.** Nationwide's affirmative defenses.

**iii.** Nationwide's claim-handling practices.

**iv.** Expert witnesses.

**C.** The parties do not anticipate any issues about disclosure or discovery of electronically stored information.

**D.** The parties do not anticipate any issues involving claims of privilege or protection of trial preparation materials.

**E.** The parties do not anticipate any changes are necessary to the limitations on discovery imposed under the Federal Rules of Civil Procedure or local rules of court.

**F.** The parties do not believe it is necessary for the Court to enter any other orders under Rule 26(c) or under Rule 16(b) and/or (c).

**G. Completion of Discovery.** The parties anticipate that discovery can be completed within 12 months of this Court's ruling on Plaintiffs' Second Motion to Remand.

**H. Discovery of Confidential Information Protective Order.** The parties acknowledge that confidential information and documents within the scope of Rule 2(c) may be the subject of discovery in this action. Confidential documents and information shall be produced by the parties subject to the terms of a protective order to be agreed to by the Parties and entered by this Court.

**I. Form of Production.** Documents and electronically stored information may be produced in paper or electronic format as .TIFF images and produced on compact disc, or other similar medium, with searchable coding for the following fields of information: (1) to/author; (2) from/recipient; (3) document date; (4) documents type; and (5) document title.

**J. Inadvertent Disclosure.** Should any party inadvertently disclose documents or electronically stored information that is subject to a claim of privilege, upon notice not more than 30 days after disclosure the receiving party shall promptly return to the disclosing party the identified documents and all copies thereof. Such inadvertent disclosure shall not be deemed a waiver of the claim of privilege.

**4. Amendments to Pleadings; New Parties.** The parties request that they be given 180 days after this Court's ruling on Plaintiffs' Second Motion to Remand to move for leave to amend pleadings. The parties do not anticipate at this point the joinder of additional parties to this suit.

**5. Dispositive Motions.** The parties agree that dispositive motions can be filed 12 months following this Court's ruling on Plaintiffs' Second Motion to Remand (after the close of discovery).

**6. Pre-Trial Disclosures.** Final lists of witnesses and exhibits under Federal Rule of Civil Procedure 26(a)(3) will be served upon the Defendant by Plaintiffs within 45 days of trial. Final lists of witnesses and exhibits under Federal Rule of Civil Procedure 26(a)(3) will be served upon Plaintiffs by Defendant within 30 days of trial. Plaintiffs and Defendant shall have fifteen (15) days after service of final lists of witnesses and exhibits to serve and file objections pursuant to Federal Rule of Civil Procedure 26(a)(3).

**7. Trial.** The parties anticipate at this time this case should be ready for trial within 15 months of this Court's ruling on Plaintiffs' Second Motion to Remand. The parties anticipate that the trial should last three days, including the presentation of evidence, jury selection, voir dire and opening and closing statements.

**8. Local Rules of Civil Procedure 16.01(6)(1)-(5) and (c):**

**a.** The Parties do not consider this case complex and it is not appropriate for monitoring.

**b.** The Parties believe that at this stage, before discovery, it is not possible to agree upon the undisputed facts.

**c.** The Parties are presently unable to consent to trial before a magistrate judge, but request leave to further explore a possible referral to a magistrate judge during the course of the case.

**d.** The Parties consent to mediation as an alternative dispute resolution consistent with Local Rules of Civil Procedure 16.05 and 16.06.

**e.** No further matters need be discussed at a scheduling conference and, as indicated herein, the Parties do not request a hearing before the entry of the scheduling order.

Date: November 18th, 2010.

Scott S. Blass via written authorization
Scott S. Blass #4628
Bordas & Bordas, PLLC
1358 National Road
Wheeling, WV 26003
Telephone: (304)242-8410
Fax: (304) 242-3936
**Attorney for the Plaintiffs**

/s/ Laurie C. Barbe
Melanie Morgan Norris #8581
Laurie C. Barbe #5540
Steptoe & Johnson PLLC
1233 Main Street, Suite 3000
Wheeling, WV 26003
Telephone: (304) 231-0463
Fax: (304)-233-0014
**Attorneys for the Defendant**